

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

MAR 18 1996
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Telecommunications Services Inside Wiring)
)
Customer Premises Equipment)

CS Docket No. 95-184

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**COMMENTS OF
BUILDING INDUSTRY CONSULTING
SERVICE INTERNATIONAL**

Building Industry Consulting Service International ("BICSI") hereby comments on the Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding, FCC 95-504, released January 26, 1996.

BICSI is a non-profit professional association established in 1973 whose 6500 members are interested in the design and installation of telecommunications facilities in buildings. Membership includes cabling system designers, manufacturers, architects, engineers, consultants, contractors, local exchange providers, interconnect companies and suppliers. Those who meet BICSI's stringent competency requirements are designated professionally as Registered Communications Distribution Designers ("RCDDs").

BICSI has commented in precursor proceedings in favor of harmonization, simplification and open access for the non-harmful attachment of cable TV customer premises wiring and equipment to potentially competitive provider networks.¹ BICSI supported the opening of this rulemaking to apportion control

¹ Comments, December 1, 1992, MM Docket 92-260; Comments, December 21, 1993, RM No. 8380.

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and responsibility for cable home wiring among consumers, video providers and third parties who may become involved in installation, maintenance and repair. We take up in order below the Notice's topics IIA through IIG.

Demarcation Point

The Notice speaks of variable practices for individual dwelling place demarcations in the telephone and cable industries, (a) the former located within 12 inches of the protector or, absent a protector, 12 inches or less inside the customer's premises; and (b) the cable demarcation being a similar distance on the outside of the exterior premises wall.²

In BICSI's experience, the telecommunications demarcation point gradually has moved to a point common to that of the cable TV demarcation on the outside of a single-family dwelling.³ This development suggests the essential rationality of ready access to accommodate both deregulation of telecommunications customer premises equipment and inside wire and competition in telecommunications service provision. Accordingly, BICSI sees no need to change the cable TV demarcation rule for single dwelling units.

For multiple unit installations, a common demarcation point inside the building would provide the interface most economically, especially considering any termination equipment required by new technologies. Present regulations do not make for uniformity.

For example, a telephone company may establish a "reasonable and non-discriminatory practice," which for installations after 1990 was further defined to

² 47 C.F.R. §§68.3(a) and 76.5(mm)(1), respectively.

³ Although the Part 68 single-unit demarcation rule typically is read on the basis of its 12-inch limit inside the dwelling, that simply represents the farthest penetration. The 12 inches may actually extend on either side of the wire's entry into the home.

mean “minimum point of entry.” However, if the telephone company does not establish a practice, the building owner may select single or multiple demarcation points. In the latter case, with reference to individual dwelling units, the demarcation may be no farther inside the unit than the 12 inches previously mentioned. Section 68.3(b)(1) and (2).

A cable operator’s demarcation point for multiple unit buildings, on the other hand, remains at the 12-inch exterior point unless the cable is “loop-through” or some other type of series wire. There is no mention of building owner choice. Section 76.5(mm)(2)

The Notice’s mention of the complementary forces of technological convergence and competition in the telephone and cable industries is reinforced by the Telecommunications Act of 1996, P.L.104-104, which adds to the enumerated modes of video delivery a concept of “open video systems” that would be regulated partly under Title VI, but would also resemble common carriage in terms of access by non-affiliated programmers, yet not be regulated under Title II.⁴ In the new environment, maintenance of separate demarcation points for the two industries is a recipe for confusion on the part of the service provider and installer as well as the building owner and subscriber.

For these reasons, BICSI believes that uniform demarcation points ultimately will benefit all parties -- tenants, building owners and service providers. The most effective way for the industry to move toward this objective, however, is not through additional FCC regulation but rather through the workings of marketplace forces and industry-sponsored standards. The Commission’s current telephony rules, as codified at 47 C.F.R. §68.3, provide a

⁴ Section 302(a) of the 1996 Act creates a Section 653 in Title VI of the Communications Act of 1934, as amended.

sufficient framework for the continued evolution of standards that will meet the needs of the market.

Connections

BICSI agrees that the use of improper coaxial cable and faulty installations can contribute to signal leakage possibly interfering with safety-sensitive radio communications. However, under the inside wire conditions at issue here -- leaving aside the accident of “cable cuts” more likely to occur in service provider networks -- leakage hazards can be diminished through minimum cable performance specifications and detailed customer installation guides.⁵ BICSI recommends adoption of cable specifications similar to the ones it has proposed for telecommunications cable. Customer ownership of video cable should carry with it emphatic educational efforts and warnings about the consequences of detaching or improperly connecting drop or premises cable that is still “live” at the distribution tap.

With respect to signal strength, BICSI believes that the Commission should require cable service providers to establish an interface specification at the common demarcation point so that customers know what level of service to expect. The requirements for the signal at that point are essentially those set forth in Sections 76.601-605 for the subscriber terminal. Picture quality seems to be a marketplace issue best left to customer premises equipment providers.

Simple and Complex, Residential and Non-Residential, Wire

Rather than extend telephony rules for simple and complex wire to cable wiring, BICSI recommends that these classifications be removed from Part 68

⁵ F-type connectors are the de facto standard in the cable industry, and BICSI sees no compelling reason for change at this time.

and a single set of regulations applied to all wiring, including telecommunications and cable wiring. The existing categories arose when carriers were responsible for providing the network interfaces at the point of connection to terminal equipment or systems. System, or complex, wiring ran between the common equipment and the station set, and for a distance of up to 50 feet in front of the common equipment.

In today's environment, Telecommunications Industry Association ("TIA") standards and BICSI methods, as well as technological advances, have all but removed the old threats of harm and obviated the need for a complex wire classification. The minimum point of entry provisions for those multiunit buildings most likely to contain system wire amount to an open access policy for the placing and connection of premises wiring. The policy has been supported by the telecommunications industry through the development of standards and methods. Any regulation of premises wiring for either cable or telecommunications service must protect networks from harm without interfering in the development and implementation of new technologies.

Customer Access to Wiring

BICSI agrees with the Notice's conclusion of no reason to change the policies that have led to customer control of telecommunications premises wiring. On similar grounds, the FCC should take the next step and give the cable subscriber control over cable premises wire, from the point of service initiation, not just at termination of service. If the threats of harm from cable signal leakage give additional force to commercial maintenance contracts in aid of the subscriber, the marketplace is likely to respond to the needs of educated customers.

Just as telephone companies were compensated through depreciation or other means for their investments in premises wire, so should the cable operator be permitted to recoup its investment in a fashion that will minimize or eliminate any incentive⁶ to disrupt service by removal of in-place wire.

Dual Regulation

The complications of federal-state shared responsibility for telecommunications and federal-local shared responsibility for cable service have been diminished somewhat -- and to a degree that will evolve with administrative and judicial interpretation -- by the Telecommunications Act of 1996. The common denominator of federal supremacy is reinforced by the general approach of the 1996 legislation, which is to cut across the interstate-intrastate boundary in the interest of promoting competition through ease of entry.

To the extent that telecommunications and cable services come to be delivered over common facilities, the following provisions of the 1996 Act would seem to be pertinent:

- Section 303, preempting franchising authority regulation of telecommunications services;
- Section 301(e) and (f), respectively concerning cable system freedom of choice in subscriber equipment and transmission technology, and cable equipment compatibility;
- Section 304, competitive availability of navigation devices;
- And, quite broadly, new Section 253 of the Communications Act established in Section 101, removing state and local barriers to entry in telecommunications services, intrastate or interstate.

⁶ Labor costs of removal are said to be a disincentive, but spite might lead retiring incumbents to disadvantage their incoming competitors.

Taken together, these lead in the same direction of common federal limits on regulation -- where states and localities may regulate less, but not more -- as came to be applied to telephone terminal equipment rules by administrative and judicial authority in the 1970s and 1980s.

Service Provider Access to Private Property

Part of the answer to parity of access, which BICSI believes is an appropriate policy goal and an inevitable result of an increasingly open marketplace, lies in establishment of common demarcation points. If that means more control over delivery by building owners on behalf of their multiple tenants, the price the owner pays is greater responsibility for the successful completion of the communication. In a competitive environment, the owner himself need not supervise the process, but he can purchase the needed oversight. In this respect, the Commission's current Part 68 rules may themselves provide sufficient authority to designate access parameters.

As in the discussion immediately above, the Telecommunications Act of 1996 needs to be considered. On the one hand, multiunit dwellings whose video communications service makes no use of public rights of way are no longer considered cable systems, regardless of the ownership of the buildings.⁷ This removes them from the developing law of cable operator access, reviewed briefly at ¶60 of the Notice.

On the other hand, the previously mentioned new Section 253 of the Communications Act, forbidding state and local regulations or legal requirements that directly or effectively prohibit entry into telecommunications services, could become an aid to accessing private property for (1) competitive telephony

⁷ Section 301(a)(2), amending Section 602(7) of the Communications Act.

providers, including (2) cable operators who seek to deliver voice messages, and who may choose to do so through facilities commonly used to transmit video programming. Subsection (d) authorizes federal preemption of state or local legal requirements that merely “permit” -- without directly imposing -- barriers to provision of any intrastate or interstate service.⁸

Customer Premises Equipment

Whatever may evolve, cable networks do not yet have that public character which led to the adoption, and continues to motivate the refinement, of Part 68 as a safeguard against harm. The radio frequency (“RF”) interference rules, including those targeting cable signal leakage, together with the cable equipment compatibility provisions of the 1996 and 1992 legislation, would seem to provide discrete approaches to particular kinds of consumer protection and to obviate the need for any general equivalent of the telephone Part 68.

CONCLUSION

For the reasons discussed, BICSI urges the Commission to minimize disruption of existing telephone demarcation point rules and, to the extent possible, apply these rules for cable service. Control of both telephone and cable wire within an end user’s premises should lie with that end user. Demarcation points and control of all wiring within common areas of multi-tenant buildings should be subject to agreements the owner reaches with service providers. Outmoded wire classifications should be discarded. Since much of the drafting

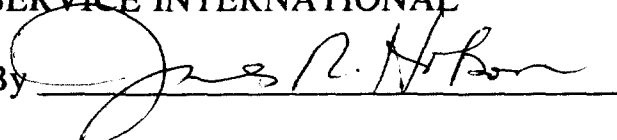
⁸ The new statute, of course, does not and was not intended to resolve constitutional confiscation (“takings”) issues that may attend legally required entry onto private property.

of the Notice appears to have occurred prior to the adoption of the Telecommunications Act of 1996, that recent legislation needs to be consulted for help in resolving the issues posed.

Respectfully submitted,

BUILDING INDUSTRY CONSULTING
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By

A handwritten signature in dark ink, appearing to read "James R. Hobson", is written over a horizontal line.

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ITS ATTORNEY

Certificate of Service

I hereby certify that I have caused to be delivered on this 18th day of March, 1996, by hand or by first class-mail, postage prepaid, copies of the foregoing COMMENTS OF BUILDING INDUSTRY CONSULTING SERVICE INTERNATIONAL to the following:

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